



# NEWS RELEASE

U.S. ARMY CORPS OF ENGINEERS

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In aftermath of Tropical Storm Irene

## Corps provides details on exemptions, permit emergency procedures for storm damage repairs in New England

**CONCORD, Mass.** –Tropical Storm Irene caused severe flooding and other storm related damages in the six New England states. As a result, state and Federal disaster declarations were made throughout the region. It is anticipated that owners of damaged property will want to conduct repair activities in the near future. This is to inform property owners of the U.S. Army Corps of Engineers permit requirements for storm damage repairs proposed within the boundaries of the New England District of the Corps of Engineers.

The Corps has Federal jurisdiction over activities that include dredging or construction in or over navigable waters of the U. S., certain excavation activities and the placement of dredged or fill material into waters of the U. S. (including wetlands), and work affecting the course, location, condition or capacity of such areas. Such activities may require a Department of the Army permit, in accordance with 33 CFR 320-332. Waters of the U.S. also include intermittent streams, natural drainage courses, and wetlands that meet applicable Federal criteria, regardless of their size.

The Corps anticipates that most activities needed to remediate storm damage would not be subject to regulation under the exemptions found at 33 CFR 323.4(a)(2). It states that any discharge of dredged or fill material that may result from any of the following activities is not prohibited by or otherwise subject to regulation under Section 404 of the Clean Water Act: "Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design." Emergency reconstruction must occur within a reasonable period of time after damage has occurred in order to qualify for this exemption. People should contact the Corps to determine if a proposed activity falls under this exemption.

Most other work in waters of the U. S. would likely qualify for one of the Corps' state general permits. A general permit is an authorization that is issued on a regional basis for a category or categories of activities that are similar in nature and do not cause more than minimal individual and cumulative adverse environmental effects. General permits substantially reduce the time needed by the Corps to process applications, allowing adequate control of minor construction while avoiding the lengthier processing required to issue an Individual Permit. There is one general permit for each of the six New England states. To see a copy of the general permit for a state, go to <http://www.nae.usace.army.mil/Regulatory>. Select "State General permits/permitting" and then "State General Permits."

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## **Corps provides information on exemptions, permit emergency procedures**

If a person intends to undertake any repair work in waters of the U. S. under the authorization of a general permit, thoroughly review the terms and conditions of the general permits and note that some activities require written authorization prior to commencement of work. It is imperative that the conditions and the management practices be followed explicitly. If a person is uncertain that the activity proposed qualifies for the exemption or a general permit the person should contact the Corps' New England District Regulatory Office prior to the commencement of work. Also note that just because a condition cannot be met does not necessarily mean that the activity cannot be authorized; in those cases a formal application will have to be made to the Corps for authorization by an Individual permit.

The general permits apply only to Department of the Army regulatory programs. Authorization by a Corps general permit does not obviate the need for state or local permits, or other federal permits as required by law. It is recommended that a person check with state and local governments in addition to any other federal agency that may have jurisdiction over a project.

In cases where proposed work does not qualify for the exemption or a general permit, and the situation would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action is not undertaken within a time period less than the normal time needed to process a permit application under standard procedures, the District can process an application for a permit under emergency procedures. Contact the Corps to determine if an activity qualifies for the emergency procedures.

The Corps recommends retaining records of permits, photographs, drawings, surveys, etc., for the structures or fill being repaired, replaced or rehabilitated and/or any other documentation showing that the structure or fill was serviceable immediately prior to the storm damage that occurred, or at the time the work was done.

For additional information on Corps permit requirements, call the Corps Regulatory Division at (978) 318-8335 or (978) 318-8338 or visit the website at <http://www.nae.usace.army.mil/Regulatory/>.

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